



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

July 1, 2020

**VIA ELECTRONIC MAIL**

Mr. James J. Brister, Vice President Health, Safety Environment and Quality  
Messer, LLC  
2000 Somerset Corporate Boulevard  
Suite 7000  
Bridgewater, NJ 08007

RE: CWA Section 308 Information Requirement

Dear Mr. Brister,

The United States Environmental Protection Agency ("EPA") hereby requires that Messer, LLC. ("Messer") provide certain information regarding the Messer facility located at 616 Dry Run Road, New Cumberland, West Virginia 18071 ("Facility"). EPA requires this information as a part of its investigation of Company Name's compliance with the Clean Water Act ("CWA"), 33 U.S.C. § 1251, and the regulations promulgated thereunder.

Compliance with this Information Requirement is mandatory. Failure to respond fully and truthfully to the Information Requirement in accordance with deadlines set forth in the Information Requirement, or to adequately justify such failure to respond, can result in enforcement action by EPA pursuant to Section 309 of the CWA, 33 U.S.C. § 1319. Please note that the provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001.

Messer is entitled to assert a business confidentiality claim, covering all or part of the information which this letter requires. Any such claim should be made in accordance with the procedures described at 40 C.F.R. § 2.203(b). In the event that Messer asserts a claim of business confidentiality with respect to any document, Messer should provide EPA with a redacted version of the document which does not contain any claimed business confidential information and which can be distributed to the public, as requested. EPA will provide the public with information subject to a claim of business confidentiality only in accordance with the procedures set forth at 40 C.F.R. Part 2, Subpart B. Unless a confidentiality claim is asserted at the time the required information is provided, EPA may make this information available to the public without further notice to Messer.

This required submission of information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501.

EPA is cognizant of potential worker shortages due to the COVID-19 pandemic as well as the travel and social distancing restrictions imposed by both governments and corporations or recommended by the Centers for Disease Control and Prevention to limit the spread of COVID-19. The consequences of the pandemic may affect facility operations and the availability of key staff and contractors. Due to the uncertainty surrounding the COVID-19 public health emergency, we understand that Messer may not have complete information at this time. In that case, Messer should provide a partial response within 30 days with all available information and a detailed explanation of the circumstances that prevent Messer from providing a complete response. Messer shall then submit a final response when complete information is accessible. If Messer submits a partial response, please indicate that a complete response will follow.

If you have any factual questions concerning this information request, please contact Ms. Lisa Trakis at (215) 814-5433.

Sincerely,

Rick Rogers, Chief  
Water Branch  
Enforcement and Compliance Assurance Division

Enclosures

cc: Brad Wright, West Virginia Department of Environmental Quality

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

In the Matter of:	:	
	:	
	:	Proceeding under Section 308 of the
	:	Clean Water Act, 33 U.S.C. § 1318
Messer, LLC	:	
616 Dry Run Road	:	
New Cumberland, WV 26351	:	
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Respondent	:	
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**INFORMATION REQUIREMENT**

**I. STATUTORY AUTHORITY**

1. This Information Requirement is issued under the authority vested in the United States Environmental Protection Agency (EPA) by Section 308 of the Clean Water Act (CWA), 33 U.S.C. § 1318. The Administrator of the EPA has delegated this authority to the Regional Administrator of EPA Region III who in turn has delegated it to the Director of the Enforcement and Compliance Assurance Division of EPA Region III, who in turn has delegated it to the Chief of the Water Branch. EPA hereby requires Messer, LLC (“Messer”, “Respondent”) to provide the information specified below.

**II. STATUTORY AND REGULATORY BACKGROUND**

2. EPA is authorized under Section 308 of the CWA, 33 U.S.C. § 1318, to require owners and operators of point sources to establish records and make such reports as may be necessary to carry out the purpose of the CWA, including but not limited to:
- a. developing or assisting in the development of any effluent limitation, or other limitation, prohibition, effluent standard, pretreatment standard, or standard of performance under the CWA;
  - b. determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition or effluent standard, pretreatment standard, or standard of performance;
  - c. any requirement under Section 308 of the CWA; and

- d. carrying out Sections 305, 311, 402, 404, and 504 of the CWA.
3. Failure to respond as directed to a CWA Section 308 Information Requirement is punishable under the civil and criminal provisions of Section 309 of the CWA, which provide for the assessment of penalties, injunctive relief and imprisonment. Providing misleading or false information may subject you to civil and criminal sanctions. The information you provide may be used by EPA in administrative, civil or criminal proceedings.
4. You may assert a business confidentiality claim covering all or part of the information submitted in response to this Requirement in the manner described in 40 C.F.R. Part 2 Subsection B. Information covered by a business confidentiality claim will be disclosed by EPA only to the extent and by means of the procedures set forth in Subpart B, 40 C.F.R. Part 2. If no claim of confidentiality accompanies the information submitted when it is received by EPA, it may be made available to the public by EPA without further notice. You may not withhold any information from EPA on the grounds that it is confidential business information.
5. This Information Requirement does not preclude EPA from performing inspections.

### **III. INSTRUCTIONS**

6. Provide a separate narrative response for each question set forth below and for each subpart of each question.
7. Identify each answer with the corresponding number of the question and subpart to which it responds.
8. State the name, address, email address, telephone number, and occupation of each person providing responses, or contributing information to responses, to each request for information below.
9. Provide all documents in your possession which relate to the responses given. With respect to each document, identify the date, author, addressee, current location, and custodian and identify the question or subpart to which it relates.
10. Answer each question to the extent possible. If any question cannot be answered in full, explain why to the extent possible. If your responses are qualified in any manner, please explain.
11. If information or documents unknown or unavailable to you as of the date of your response to this request become known or available to you after submitting your response to the request, you must supplement your response to EPA. Moreover, should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide a corrected response.
12. Each submission pursuant to this request must be accompanied by the following certification and must be signed by a representative of Company Name and authorized to respond on behalf of that entity.

*"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for known violations."*

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

13. All information shall be submitted within thirty (30) days of receipt of this Information Requirement electronically to:

Lisa Trakis  
Enforcement and Compliance Assurance Division  
United States Environmental Protection Agency, Region III  
1650 Arch Street (3ED32)  
Philadelphia, PA 19103-2029  
[trakis.lisa@epa.gov](mailto:trakis.lisa@epa.gov)

If you are unable to send requested documentation electronically, please contact Lisa Trakis via phone or email to discuss alternate delivery methods. In both your message and written response, please indicate the specific information requested by EPA that you are unable to provide electronically.

14. If you have questions regarding this Information Requirement, you may contact Ms. Lisa Trakis of the Enforcement and Compliance Assurance Division at [trakis.lisa@epa.gov](mailto:trakis.lisa@epa.gov) or (215) 814-5433.

## **V. INFORMATION REQUIREMENT**

The Respondent is hereby required, pursuant to Section 308 of the CWA, 33 U.S.C § 1318, to submit the following information to EPA within thirty (30) calendar days of receipt of this Information Requirement:

15. Provide a narrative description of Messer facility, operational processes, and water pollution control equipment. Include in your response a site map that includes all outfall locations.
16. Attached is a spreadsheet with effluent exceedances identified in EPA's data systems for the period June 1, 2015 through March 31, 2020 and based on discharge monitoring reports (DMR) submitted by Messer. Please identify any additional effluent exceedances for the period of June 1, 2015 through March 31, 2020 not identified on the spreadsheet and provide a certification as to the accuracy of the spreadsheet and any additions pursuant to Paragraph 12.

17. For each exceedance identified in Paragraph 16, provide a detailed narrative description of the cause of the exceedance and any measure you have taken or intent to take to correct the exceedance or prevent future exceedances. Include completed or scheduled dates for each identified measure. If applicable, include detailed non compliance notifications submitted to the West Virginia Department of Environmental Protection (WVDEP.)
18. Provide copies of any documents identified in or in support of your responses to questions 15-17, including copies of DMRs for exceedances identified in Paragraph 16.
19. Provide any additional information related to violations that impact the current compliance status at the facility, other than those exceedances identified in Paragraph 16.

## **VI. EFFECTIVE DATE**

This INFORMATION REQUIREMENT is effective upon receipt.

Date: July 1, 2020

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Richard A. Rogers, Chief  
Water Branch  
Enforcement and Compliance Assurance Division

## NPDES Permit No. WV0049361

Outfall	Parameter Desc	Limit Value	DMR Value	Monitoring Period End Date
001	Temperature, water deg. fahrenheit	74.	79.88	05/31/2018
001	Iron, total [as Fe]	.8	.9	06/30/2015
001	Iron, total [as Fe]	.8	.9	07/31/2015
001	Iron, total [as Fe]	.8	.901	08/31/2015
001	Iron, total [as Fe]	.8	.917	03/31/2016
001	Iron, total [as Fe]	.8	.967	12/31/2015
001	Iron, total [as Fe]	.8	1.83	02/29/2016
001	Iron, total [as Fe]	1.	1.07	01/31/2018
001	Iron, total [as Fe]	1.	1.13	10/31/2016
001	Iron, total [as Fe]	1.	1.2	08/31/2018
001	Iron, total [as Fe]	1.	1.5	01/31/2017
001	Iron, total [as Fe]	1.	1.55	12/31/2016
001	Iron, total [as Fe]	1.	1.6	06/30/2016
001	Iron, total [as Fe]	1.	1.64	11/30/2016

001	Iron, total [as Fe]	1.	1.7	10/31/2018
001	Iron, total [as Fe]	1.	1.78	03/31/2019
001	Iron, total [as Fe]	1.	1.85	05/31/2018
001	Iron, total [as Fe]	1.	1.93	02/28/2017
001	Iron, total [as Fe]	1.	1.95	12/31/2017
001	Iron, total [as Fe]	1.	1.98	03/31/2017
001	Iron, total [as Fe]	1.	2.03	11/30/2017
001	Iron, total [as Fe]	1.	2.15	07/31/2018
001	Iron, total [as Fe]	1.	2.39	06/30/2018
001	Iron, total [as Fe]	1.	2.44	02/28/2019
001	Iron, total [as Fe]	1.	2.72	01/31/2019
001	Iron, total [as Fe]	1.	2.99	04/30/2020
001	Iron, total [as Fe]	1.	7.1	02/29/2020
001	Iron, total [as Fe]	1.	12.84	04/30/2018
001	Iron, total [as Fe]	2.8	2.99	04/30/2020
001	Iron, total [as Fe]	2.8	7.1	02/29/2020



001	Iron, total [as Fe]	2.8	16.8	04/30/2018
001	Aluminum, total recoverable	.55	.554	03/31/2017
001	Aluminum, total recoverable	.55	.799	12/31/2016
001	Aluminum, total recoverable	.55	1.3	01/31/2019
001	Aluminum, total recoverable	.55	1.55	02/28/2019
001	Aluminum, total recoverable	.55	6.61	02/29/2020
001	Aluminum, total recoverable	.6	.718	03/31/2016
001	Aluminum, total recoverable	.6	1.17	02/29/2016
001	Aluminum, total recoverable	1.7	6.61	02/29/2020
001	Copper, total recoverable	.017	.0171	06/30/2017
001	Copper, total recoverable	.017	.018	09/30/2019
001	Copper, total recoverable	.017	.0185	01/31/2020
001	Copper, total recoverable	.017	.019	07/31/2016
001	Copper, total recoverable	.017	.019	12/31/2016
001	Copper, total recoverable	.017	.019	11/30/2017
001	Copper, total recoverable	.017	.0204	04/30/2017

001	Copper, total recoverable	.017	.021	11/30/2018
001	Copper, total recoverable	.017	.023	05/31/2017
001	Copper, total recoverable	.017	.0249	06/30/2019
001	Copper, total recoverable	.017	.028	04/30/2020
001	Copper, total recoverable	.017	.0286	05/31/2019
001	Copper, total recoverable	.017	.0287	09/30/2018
001	Copper, total recoverable	.017	.033	06/30/2016
001	Copper, total recoverable	.017	.036	12/31/2018
001	Copper, total recoverable	.017	.037	10/31/2018
001	Copper, total recoverable	.017	.037	01/31/2019
001	Copper, total recoverable	.017	.037	02/28/2019
001	Copper, total recoverable	.017	.038	08/31/2018
001	Copper, total recoverable	.017	.04	04/30/2019
001	Copper, total recoverable	.017	.043	03/31/2019
001	Copper, total recoverable	.017	.045	03/31/2020
001	Copper, total recoverable	.017	.052	02/28/2018

001	Copper, total recoverable	.017	.061	12/31/2017
001	Copper, total recoverable	.017	.0948	02/29/2020
001	Copper, total recoverable	.017	.112	06/30/2018
001	Copper, total recoverable	.017	.113	07/31/2018
001	Copper, total recoverable	.017	.268	01/31/2018
001	Copper, total recoverable	.017	.275	05/31/2018
001	Copper, total recoverable	.017	.312	03/31/2018
001	Copper, total recoverable	.017	.804	04/30/2018
001	Copper, total recoverable	.018	.023	12/31/2015
001	Copper, total recoverable	.018	.025	07/31/2015
001	Copper, total recoverable	.018	.026	06/30/2015
001	Copper, total recoverable	.037	.041	08/31/2018
001	Copper, total recoverable	.037	.041	12/31/2018
001	Copper, total recoverable	.037	.042	04/30/2019
001	Copper, total recoverable	.037	.047	10/31/2018
001	Copper, total recoverable	.037	.047	03/31/2019

001	Copper, total recoverable	.037	.051	02/28/2019
001	Copper, total recoverable	.037	.06	01/31/2019
001	Copper, total recoverable	.037	.063	02/28/2018
001	Copper, total recoverable	.037	.071	06/30/2016
001	Copper, total recoverable	.037	.072	03/31/2020
001	Copper, total recoverable	.037	.103	12/31/2017
001	Copper, total recoverable	.037	.116	06/30/2018
001	Copper, total recoverable	.037	.131	02/29/2020
001	Copper, total recoverable	.037	.146	07/31/2018
001	Copper, total recoverable	.037	.485	01/31/2018
001	Copper, total recoverable	.037	.598	03/31/2018
001	Copper, total recoverable	.037	.613	05/31/2018
001	Copper, total recoverable	.037	1.18	04/30/2018
001	Phenolics, total recoverable	.039	.051	06/30/2018
001	Phenolics, total recoverable	.039	.06	01/31/2019
001	Phenolics, total recoverable	.039	.061	01/31/2020

001	Phenolics, total recoverable	.039	.063	08/31/2018
001	Phenolics, total recoverable	.039	.078	11/30/2018
001	Chlorine, total residual	.022	.065	05/31/2016
001	Chlorine, total residual	.025	.03	08/31/2016
001	Chlorine, total residual	.025	.03	09/30/2016
001	Chlorine, total residual	.025	.03	11/30/2019
001	Chlorine, total residual	.025	.035	08/31/2018
001	Chlorine, total residual	.025	.035	07/31/2019
001	Chlorine, total residual	.025	.035	09/30/2019
001	Chlorine, total residual	.025	.04	07/31/2016
001	Chlorine, total residual	.025	.04	03/31/2018
001	Chlorine, total residual	.025	.04	02/28/2019
001	Chlorine, total residual	.025	.04	03/31/2019
001	Chlorine, total residual	.025	.045	02/28/2017
001	Chlorine, total residual	.025	.05	06/30/2016
001	Chlorine, total residual	.025	.05	10/31/2016

001	Chlorine, total residual	.025	.05	02/28/2018
001	Chlorine, total residual	.025	.056	11/30/2017
001	Chlorine, total residual	.025	.06	09/30/2018
001	Chlorine, total residual	.025	.06	04/30/2019
001	Chlorine, total residual	.025	.06	06/30/2019
001	Chlorine, total residual	.025	.065	01/31/2018
001	Chlorine, total residual	.025	.075	06/30/2018
001	Chlorine, total residual	.025	.085	10/31/2017
001	Chlorine, total residual	.025	.09	05/31/2017
001	Chlorine, total residual	.025	.09	08/31/2019
001	Chlorine, total residual	.025	.09	10/31/2019
001	Chlorine, total residual	.025	.09	12/31/2019
001	Chlorine, total residual	.025	.125	08/31/2017
001	Chlorine, total residual	.025	.145	06/30/2017
001	Chlorine, total residual	.025	.19	07/31/2017
001	Chlorine, total residual	.025	.21	09/30/2017

001	Chlorine, total residual	.057	.06	02/28/2019
001	Chlorine, total residual	.057	.07	03/31/2019
001	Chlorine, total residual	.057	.08	10/31/2016
001	Chlorine, total residual	.057	.08	01/31/2018
001	Chlorine, total residual	.057	.08	02/28/2018
001	Chlorine, total residual	.057	.08	04/30/2019
001	Chlorine, total residual	.057	.08	06/30/2019
001	Chlorine, total residual	.057	.09	10/31/2017
001	Chlorine, total residual	.057	.09	10/31/2019
001	Chlorine, total residual	.057	.1	06/30/2018
001	Chlorine, total residual	.057	.1	09/30/2018
001	Chlorine, total residual	.057	.11	05/31/2016
001	Chlorine, total residual	.057	.11	11/30/2017
001	Chlorine, total residual	.057	.12	05/31/2017
001	Chlorine, total residual	.057	.13	08/31/2017
001	Chlorine, total residual	.057	.14	12/31/2019

001	Chlorine, total residual	.057	.16	08/31/2019
001	Chlorine, total residual	.057	.19	06/30/2017
001	Chlorine, total residual	.057	.19	07/31/2017
001	Chlorine, total residual	.057	.22	09/30/2017